

OCT 09 2008

JOHN F. CORCORAN, CLERK  
BY:  
DEPUTY CLERK *J. Turk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

DELMER LOUIS SMITH, )  
Plaintiff, ) Civil Action No. 7:08-cv-00509  
 )  
v. )  
 )  
GENE JOHNSON, et. al., )  
Defendants. ) FINAL ORDER  
 )  
 ) By: Hon. James C. Turk  
 ) Senior United States District Judge

In accordance with the Memorandum Opinion entered this day, it is hereby

**ADJUDGED and ORDERED**

that this action shall be and hereby is **DISMISSED** without prejudice, pursuant to 28 U.S.C. §1915A(b)(1), plaintiff's motion to amend is **DENIED**,<sup>2</sup> and the case is stricken from the active docket of the court.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to plaintiff.

ENTER: This 9<sup>th</sup> day of October, 2008.

*James C. Turk*  
\_\_\_\_\_  
Senior United States District Judge

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<sup>2</sup>Petitioner states in the motion to amend that he needs to "include another sentence where the same issues are involved." As the current motion fails to provide the details to be added and involves evidence of a type that would not affect the court's judgment in this case, it is denied.